

FREDERICK COUNTY LIQUOR BOARD
Public Meeting Minutes
Monday, September 26, 2016

Those Present: Mr. Rick Stup, Chairman
 Mrs. Maggi Hays, Board Member
 Mr. Jesse Pippy, Board Member
 Mrs. Kathy V. Dean, Administrator
 Mr. Harold DeLauter, Alcoholic Bev. Inspector
 Mr. Bob Shrum, Alcoholic Bev. Inspector
 Mrs. Penny Bussard, Administrative Specialist V
 Mrs. Ashley Sklarew, Administrative Specialist V

A Public Meeting was held at 12 E. Church Street, Frederick, Maryland, and was called to order at 9:00 AM by Chairman Stup.

1. Mr. Stup stated there will be two special license applicants that are attending for a conference which will take place on the agenda under public comments.
2. Mrs. Dean provided the violation update, there are six no contest letters that were mailed out. One notice for a violation hearing that will be held on October 17th was mailed. There are three violations waiting to be returned from Mrs. Linda Thall, Sr. County Attorney. No other violations are pending at this time.
3. Decision Required: Application

RE: Matthew Trasher and Paul Tinney
for the use of Rockwell Brewery LLC
t/a Rockwell Brewery
880 N. East Street
Frederick, MD 21701

Class DBR, On Site Consumption Permit
Beer Only License

Mrs. Dean swore in the applicants. The pending items for this case are final zoning approval, occupancy permit, effective date for the lease, fire marshal approval, health department approval, manufacturer's license, alcohol awareness and the inspector's final report. Mr. Paul Tinney stated that he had received a letter of approval from the Zoning office, it was forwarded to the State and would be happy to provide the Board with a copy. The occupancy permit has not been obtained as the build out is not complete. The build out is expected to be complete by the end of October. The target open date is the middle of November. Mr. Tinney stated the effective date of the lease is upon possession which will occur by next week. Mrs. Dean stated that a copy of the final lease will be needed before the license can be issued. Mr. Tinney stated that the Fire Marshal was at the establishment prior and has walked through the space. Mr. Tinney stated that he has met with the Health Department and they have

reviewed all of the equipment and reviewed the setup and they wrote a letter to the permitting department with their approval. Mr. Tinney has a copy to provide to the Board. Mr. Tinney stated they have the Federal TTB license but has not yet received the state license. He is in communication with the state and the application is complete and he expects the state to schedule an inspection. Mr. Matthew Trasher stated that both he and Mr. Tinney attended the alcohol awareness class and passed they are just waiting on the certificates to arrive in the mail. Inspector Bob Shrum stated that he contacted Mr. Trasher and he stated he wasn't ready for the inspection. Inspector Shrum advised Mr. Trasher to call him when the work was completed. Mr. Pippy noted that Mr. Trasher had been on the license for the Owl's Club. Mr. Trasher stated that he has been removed from the license. Mrs. Dean stated the violation history for the Owl's Club was on May 1, 2003, the renewal was filed late. This was the only violation that occurred while Mr. Trasher was on the license. Mr. Pippy stated that the licensees are in control of their own business as licensees you are ultimately held responsible for any activities as it pertains to alcohol at the establishment. The applicants are hoping to have entertainment at their establishment. Mrs. Dean stated that the applicants filed an entertainment application and a patio request form. Mr. Tinney stated there is a mini stage, however the venue is very small. It is limited to three acoustic setups and it will not be outside.

MOTION: Mr. Pippy made a motion for conditional approval of the application for a DBR license including the patio and entertainment until January 9, 2016.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION ON THE MOTION:

There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

4. Decision Required: Application

RE: Van Huynh
for the use of Lucky Corner Westview Inc
t/a Lucky Corner Vietnamese Restaurant
5100 Buckeystown Pike
Frederick, MD 21704
Class B, On Sale, Beer, Wine & Liquor

Mrs. Dean swore in the applicants. Mr. Stup stated that the application did not have a complete address on the application, assuming this is approved the applicant will need to meet with staff to correct the application. Mrs. Dean noted for the record it is to add Suite 174-178. The pending items for this case are Zoning approval, Occupancy Permit, Fire Marshal approval, Health Department approval, retail sales tax license, workers comp information, and the Inspector's report. Mr. Chung spoke on behalf of Lucky Corner Westview, he will be representing his mother and father. Mr. Chung stated that everything is already approved and the restaurant is currently open and has been for three weeks. Mr. Chung stated the Health Department has approved, Zoning has approved, the Occupancy Certificate has been issued, the Sales Tax license has been issued, a Federal Tax Id has been obtained and workers comp has been obtained. Mr. Stup requested Mr. Chung to provide copies to staff and it would help expedite the process. Inspector DeLauter stated he was at the establishment on Tuesday, September 20, 2016 at approximately 3:24pm. Inspector DeLauter stated he checked all of the records, and the building, the applicants comply with all the regulations set by the Board. Mrs. Dean noted that the next application is for Lucky Corner which is a transfer of the existing license, which must be done before this license is issued. Mr. Stup stated that the request for entertainment is for soft music daily during operational hours. Also the applicant included a request for outdoor seating. Mr. Chung stated they wanted to do outdoor seating but because of the hearing they have decided not to do the outdoor seating this year and will wait until February or March of 2017. Mrs. Dean stated there is no violation history for the current license for Lucky Corner that is located at 700 N. Market Street.

MOTION: Mr. Pippy made a motion for conditional approval of the application until October 17, 2016 including the entertainment request, contingent upon the transfer of the existing license which is the next item on the agenda.

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

5. Decision Required: Transfer Application

RE: Huy Duong
for the use of Lucky Corner Vietnamese Restaurant, Inc.
t/a Lucky Corner Vietnamese Restaurant
700 N. Market Street
Frederick, MD 21701
Class B, On Sale, Beer, Wine & Liquor

Mrs. Dean did not swear in the applicants as they are all still under oath because they were sworn in with the applicant above. Mrs. Dean stated the pending items for this application are Fire Marshal approval, Health Department approval, and the Inspector's report. Mrs. Dean stated that the Health Department has been behind with their inspections and has not been to the location yet. Mrs. Dean stated that even though this business has been in operation for time, transfer applications are treated the same as new applications and require all inspections. Mr. Stup stated that the complete address needs to go on the application and asked the licensee to see staff to make the edit. Mr. Stup stated that this application has an application for entertainment, and the entertainment request meets the Board's criteria. The applicant stated there are 6 (six) tables outside. Mr. Stup stated the Board needs to receive an outside sketch, seating plan and monitoring plan for the outside area. Mr. Pippy stated that as a licensee you are ultimately held responsible for any activities relating to alcohol at the establishment whether you have employees or other people that come in to help, whether the licensee is there or not there. The Board looks at the licensee as the one who is ultimately responsible for what goes on at the establishment. Mr. Pippy stated this establishment has a good record and encourages them to keep up the good work. Currently 5 (five) people have alcohol awareness training. Inspector Shrum stated that he went to the establishment on September 20th and the applicants comply with all laws and regulations of the Frederick County Liquor Board.

MOTION: Mrs. Hays made a motion for conditional approval of the application until October 17, 2016 including the entertainment request, and outside area.

SECOND: Mr. Pippy seconded the motion.

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

6. Adoption of Legislative Packet: Decision Required

Mr. Stup stated the Board has decided on 4 (four) items to bring forth to the delegation. Mr. Stup will list each item and then take public comment on each of the items. This list will then be discussed with the liaison for the delegation to see if the delegation is willing to put forward legislation for the General Assembly to approve. The Board is not the approving authority on any of these matters. Those four items are a Barbershop License, Cigar Shop License, Sunday Hours and the Restaurant Food/Alcohol Ratio.

- A. Barber Shop License: Mr. Stup stated that a Beauty Shop License was created last year. There was input that this type of license be extended to Barber Shops. Mrs. Dean stated about 4 (four) Beauty Shop applications have gone out for completion; however, none have been filed. There was no public comment.
- B. Cigar Shop License: Mr. Pippy would like the Board to agree on a percentage to propose to the delegation. Currently the State allows up to 17% as a classification of incidental expenses. Currently there are other jurisdictions that have two different percentages in the State. Mr. Pippy stated, if the State allows 17% then the Board should ask for it. If the delegation chooses to change it, then they can. Mr. Stup stated there was a concurrence from all three Board members. There was no public comment.
- C. Sunday Hours: Mr. Stup stated the Board voted to request Sunday beginning sales hours from 11:00am start time to a 10:00am start time. Mrs. Hays stated she would like to give licensees a choice of what time they would like to open on Sunday mornings, between 6:00am or 10:00am. Mrs. Hays stated there was a poll in the Frederick News Post which gave an overwhelming majority of people to 6:00am. Mr. Stup stated that he is not willing to change his vote. Mr. Pippy stated there are a lot of factors to consider and he believes 10:00am brings balance to the community. There was no public comment.
- D. Restaurant Food/Alcohol Ratio: Mr. Stup stated that the Board went to the Delegation last year and they advised the Board to try to handle this within the Board's existing regulations. Even though the Board's counsel didn't feel it could be done. The Board decided they should go to the delegation and plead the case to make the changes. The Board is currently in a modification to the licensees for those that are in violation so that they aren't hit with violations until this is resolved. Mr. Pippy stated the Liquor Board enforces laws that are on the books, that is the essential job of the Board. Right now the law is written, you have to be a restaurant with a Class B license, which is defined by the ratio. This means there must be more food sales than alcohol sales. Mr. Pippy doesn't want a situation where the licensees don't

know what the rules are. It puts an unfair advantage. If there is difficulty meeting the ratio then the Board should do something about it. Mr. Pippy continue to state, the problem is when the Delegation states the Board has the power to fix it themselves, the Board really doesn't because of what the law states. Mr. Pippy knows there are a lot of establishments that aren't able to meet the requirements already and in all fairness to the licensees Mr. Pippy thinks the rules should be clear and licensees should know whether they are in compliance or not. Mr. Pippy would like to express to the Delegation that something needs to be done and has to be done at the Delegation level. Mrs. Hays asked if there was going to be a Tavern license and Mr. Stup stated the Board voted not to move forward with a Tavern license. Mr. Pippy stated he was out voted for a Tavern license and it could be added he only needed one more vote. For the audience's sake, Mr. Pippy stated there are 25 jurisdictions in Maryland and they are made up of the 23 one for each County, Baltimore City and the City of Annapolis. There are only 2 (two) jurisdictions, including Frederick County, that do not allow a Class D license. Mr. Pippy continued to state that a Class D license, also known as a Tavern license, does not have a food/alcohol ratio requirement, which is like a Bar. Just because you have a bar license doesn't mean you have to give them all out, they can be limited. Mr. Pippy suggested at the last meeting that the Board explore having the option to give out a Class D license. Mrs. Hays stated she agrees with Mr. Pippy and it should be pursued. Public comment came from Mrs. Susie Glass of the Ott House. Mrs. Glass asked if the Tavern license included liquor or is it just for Beer and Wine. Mr. Pippy replied that a Class D could be for Beer Only, Beer and Light Wine or Beer, Wine and Liquor. Mrs. Hays stated the Board would probably take applications for Class D, case by case decision. Mrs. Glass asked the Board to ask the Delegation to help with the ratio that it is for Frederick County only but not for the entire State of Maryland. Mr. Pippy stated it would be specific to Frederick County only, when he talks about the state he is referring to Frederick County's State Delegation would change a law specific to Frederick County. Mr. Pippy pointed out that the Board just approved a Class D license earlier today. The Class DBR is a Class D for Breweries. Mr. Pippy continued to state that this Brewery is exempted from having the food requirement at their establishment. Mr. Pippy pointed out that there are already a few establishments that have Class D licenses in Frederick County already. Mrs. Dean stated that these Breweries do have a manufacturing license as well which is issued by the State which doesn't allow them to have food. Mr. Stup stated the ratio is only for restaurants and the manufacturing licenses aren't allowed to have a restaurants. Mrs. Dean stated she hasn't done the research but Class D licenses may not even be permitted to have food.

Mr. Stup asked Mrs. Hays if she would like to make a motion regarding Class D licenses. Mrs. Hays would like Class D in the packet for the Delegation to think about it. Mr. Pippy stated he agreed with Mr. Stup, there are a lot of moving pieces including local zoning laws that may have to be changed. Similar to the food/alcohol ratio without a concrete foundation could create a problem. Mr. Stup stated that research would need to be done and then presented to the Delegation and explain why Frederick County needs it. Mr. Pippy and Mrs. Hays will need to come up with what they would want for the Class D license and to give it to Mrs. Dean. The Board will have to meet with the Delegation Liaison in the next couple of weeks. Mr. Pippy feels it should be left off for now. Mrs. Dean stated that most Tavern licenses cost significantly more than Restaurant licenses.

MOTION: Mr. Pippy made a motion to leave the 4 (four) items as they are without the Class D license and move forward with the list to the Delegation.

SECOND: Mr. Stup seconded the motion.

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye
Mr. Pippy-Aye

The vote was unanimous **Aye-3, Nays-0**
(Motion Passed)

7. Minutes: Update

Mr. Stup stated that the minutes from January 4, 2016, January 11, 2016, February 8, 2016 and February 22, 2016 are behind. Mr. Stup did forward the appropriate minutes to previous chairman Dick Zimmerman, who is no longer on the Board but was involved with the hearings. Mr. Stup did get a response from Mr. Zimmerman that the content of the minutes were correct there were just some minor spelling and punctuation errors to be fixed. Mr. Stup gave Mrs. Sklarew the errors to be fixed.

MOTION: Mr. Stup made a motion to approve the minutes as amended with the minor punctuation, spelling, and etc corrections that were given to staff

SECOND: Mrs. Hays seconded the motion.

FURTHER DISCUSSION ON THE MOTION:
There was no further discussion on the motion.

VOTE: Mr. Stup-Aye
Mrs. Hays-Aye

Mr. Pippy-Abstain

***Aye-2, Nays-0
(Motion Passed)***

8. Public Comment: There was no public comment.
9. Special applications: There were issues with 2 (two) special applications that were filed late and the Board has requested those applicants to meet with the Board for a conference.
 - A. Louise Kennelly was present from the Frederick Arts Council. Mr. Stup stated this was the second time the Frederick Arts Council has been late filing an application and there is a late fee associated with filing late. Mr. Stup stated that late application handcuffs the Board's staff. This was such a problem that it was requested through the Delegation and it was approved by the General Assembly that non-profits have an option to file for a multi-event permit. The multi-event permit allows non-profits to apply for events up to 50 for a calendar year on one application. As the events come up the applicant can pick up the license. This alleviates our overwhelmed staff to focus on other items that need to be completed. Mr. Stup stated the Board certainly does not want to violate a non-profit, that is why the Board brought the Frederick Arts Council in for a conference. Mrs. Kennelly stated she is interested in moving forward with a multi-event license as they hope to bring more events to their new location. Mr. Stup informed Mrs. Kennelly that a \$25 late filing fee was due before the next Special license could be issued.
 - B. Brittany Barber was present from the Downtown Frederick Partnership. Mrs. Dean stated that on September 15, 2015 a license was requested for an event of September 17, 2015, the Board assessed a \$50 late filing fee before the license could be picked up. On June 28, 2016, a license was requested for an event on July 5, 2016. The event was cancelled on July 5th because Zoning couldn't approve the location. On August 24, 2016, a license was requested for an event on September 3, 2016. On September 20, 2016, a license was requested for an event on September 29, 2016. Mr. Stup stated that the Board was surprised that Downtown Frederick Partnership was continuing to file late as the Board asked for the multi-event permit because of Downtown Frederick Partnership. Mr. Stup stated he knows the City and a representative from Downtown Frederick Partnership went to Annapolis to testify in support the multi-event permit. Mr. Stup stated that staff has to stop their work to focus on emailing the Board and other agencies for approval. Sometimes the staff has to call everyone when there is a short turnaround time. Mrs. Barber stated that Downtown Frederick Partnership took advantage of the multi-event license for the 20 Alive at 5 events during the summer. Mrs.

Barber is now clear that all the Alive at 5 events, movie nights and 1st Saturday's could have all been applied at once on one application. Mr. Stup stated as long as the diagrams, alcohol plans and venues are on file it shouldn't be an issue and if the event is canceled, the Board just needs notification. Mr. Stup stated that this makes the process much easier for staff and the applicants. Mr. Stup informed Mrs. Barber that a \$25 late filing fee was due before the next Special license could be issued.

10. Adjournment

Mr. Stup stated the next scheduled meeting is October 3, 2016. Mrs. Hays stated she will not be at the October 3, 2016 meeting.

Mr. Stup adjourned the meeting at 10:27am.

Respectfully submitted,
Kathy V. Dean, Administrator
FREDERICK COUNTY LIQUOR BOARD

Prepared by Ashley Sklarew